

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 363 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

SAYAJI MILLS LTD

Versus

COMMISSIONER OF INCOME TAX

Appearance:

MR JP SHAH for Petitioner

MR MANISH R BHATT for Respondent No. 1

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE M.C.PATEL

Date of decision: 16/06/98

ORAL JUDGEMENT

Three questions were referred to this Court.

1. "Whether on the facts and in the circumstances of the case the Appellate Tribunal was right in law in holding that the Commission of Rs.3,56,238/- paid to the 3 Managing Directors was a part of

remuneration for the purpose of determining the disallowance u/s. 40(c) of the Income-tax Act, 1961 ?"

2. "Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that the said loss of Rs.10,000/- cannot be considered as capital loss?"

3. "Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding the expenses of Rs.6,938/- on Sorbitol Project were rightly considered as capital expenditure by the Income-tax Officer?"

2. The Learned Counsel on both the sides stated that so far as question no.1 is concerned, it is concluded against the assessee by a decision of the Hon'ble Supreme Court in C.I.T. v. Indian Engg. & Commercial Corpn. 201 ITR 723. The first question is, therefore, decided in the negative, i.e. in favour of the revenue and against the assessee.

3. The learned Counsel for the applicant Mr.Shah does not press questions no.2 and 3. They therefore do not survive for our consideration.

4. Reference is, accordingly, disposed of. No order as to costs.

(C.K.Thakker, J)

(M.C.Patel, J)

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